

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 5:06-cr-00059

DAVID MARTINAS EPPERSON, JR.,

Defendant.

REVOCATION OF SUPERVISED RELEASE AND JUDGMENT ORDER

On January 14, 2010, the Defendant, David Martinas Epperson Jr., appeared in person and by counsel, Edward H. Weis, Assistant Federal Public Defender, for a hearing on the *Petition for Warrant or Summons for Offender Under Supervision* submitted by the Defendant's supervising probation officer. The United States was represented at the hearing by John L. File, Assistant United States Attorney. United States Probation Officer Brett Taylor was also present at the hearing.

On March 28, 2001, the Defendant was sentenced to a term of 120 months imprisonment, followed by a 3 year term of supervised release. On October 16, 2002, the Defendant was re-sentenced to 96 months imprisonment followed by a 3 years term of supervised release. The Defendant began serving the term of supervised release on February 9, 2006. On April 21, 2008, this Court revoked the Defendant's supervised release and sentenced him to a term of imprisonment of 11 months followed by a term of supervised release of 25 months. On June 8, 2009, the Defendant again appeared before this Court for violating the conditions of his supervised release. At that time, this Court revoked the Defendant's supervised release and sentenced him to a term of

time served and a 1 year period of supervised release at Lebanon Community Corrections Center. On December 4, 2009, the *Petition for Warrant or Summons for Offender Under Supervision* was filed charging the Defendant with violating certain conditions of supervised release.

At the hearing, the Court found that the Defendant had received written notice of the alleged violations as contained in the *Petition*, and that the evidence against the Defendant had been disclosed. The Court further found that the Defendant appeared, was given the opportunity to present evidence, and was represented in the proceeding by counsel.

The Court then found, by a preponderance of the evidence, that the Defendant violated certain conditions of supervised release as contained in the *Petition*, specifically:

- 1) Violation of unnumbered standard condition: The defendant shall not commit another federal, state or local crime and shall not illegally possess a controlled substance:

A urine specimen collected from Mr. Epperson on November 19, 2009, tested positive for opiates (morphine). Mr. Epperson does not have a prescription for the use of any opiates at this time. Mr. Epperson was a resident of Lebanon Community Correction Center at the time the specimen was collected. The director of the halfway house directed Epperson to leave the halfway house on November 24, 2009.

- 2) Violation of standard condition: The defendant shall refrain from any unlawful use of a controlled substance:

The probation officer re-alleges the conduct in violation number one.

In making these findings, the Court relied upon the information contained in the *Petition* and the Defendant's statement that he admits the violations contained in the *Petition*.

Having found the Defendant to be in violation of the conditions of supervised release, the Court **REVOKED** the Defendant's supervised release and entered judgment as follows:

It is the **JUDGMENT** of the Court that the Defendant be committed to the custody of the Federal Bureau of Prisons for a term of **11 MONTHS**. The Defendant shall be given credit for time


served as appropriately calculated by the Bureau of Prisons. The Court recommends that the Defendant be placed at an appropriate Bureau of Prisons facility outside the Mid-Atlantic Region that does not have a presence of the “Dirty White Boys” prison gang.

The Defendant was remanded to the custody of the United States Marshal.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: January 15, 2010



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE